

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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APOTEX, INC.,

Plaintiff,

v.

CEPHALON, INC., et al.,

Defendants.

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CIVIL ACTION

No. 2:06-cv-2768

**ORDER**

**AND NOW**, this 15th day of March, 2011, upon consideration of this Court's March 9, 2011, Order bifurcating the invalidity and unenforceability claims from the non-infringement claim, it is hereby **ORDERED** that:

- 1) "Defendant Cephalon Inc.'s *Daubert* Motion to Preclude Certain Testimony," (doc. no. 395), as it relates to Dr. David Beach only, is **DENIED** without prejudice;
- 2) "Apotex Inc.'s Third Daubert Motion: Apotex Inc.'s Motion to Exclude Cephalon, Inc.'s Expert Reports and Testimony Regarding Testing of Modafinil Tablets," (doc. no. 398) is **DENIED** without prejudice;
- 3) "Defendant Cephalon, Inc.'s Motion *in Limine* For a Finding That Apotex, Inc.'s Failure to Produce Unexpired Samples of Its Proposed Product Justifies an Adverse Inference That Its Product Infringes the '516 Patent," (doc. no. 421) is **DENIED** without prejudice; and
- 4) "Defendant Cephalon, Inc.'s Motion *in Limine* to Preclude Apotex, Inc. From Relying on Late-Produced Documents Relating to Apotex's Standard Operating Procedures," (doc. no. 422) is **DENIED** without prejudice.

**BY THE COURT:**

**/s/ Mitchell S. Goldberg**

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**Mitchell S. Goldberg, J.**